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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		9884	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number	Filed
on <u>2/1/06</u>		09/975,399	Oct. 11, 2001
Signature <u>Michelle George</u>		First Named Inventor	
Typed or printed name <u>Michelle George</u>		Kenneth D. Rector	
		Art Unit	Examiner
		2195	Kenneth Tang
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u>Harden E. Stevens III</u> Signature	
<input type="checkbox"/>	applicant/inventor.	Harden E. Stevens III Typed or printed name	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		
<input checked="" type="checkbox"/>	attorney or agent of record. Registration number <u>55,649</u>	<u>803-939-6505</u> Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>Feb. 31, 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth D. Rector

Serial No.: 09/975,399

Filed: October 11, 2001

For: PRIORITY SCHEDULER FOR
DATABASE ACCESS

§ Group Art Unit: 2195

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Examiner: Kenneth Tang

Atty. Dkt. No.: 9884 (NCR)

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection, in this case. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

102(e) Rejection of Independent Claims 1 and 10

Independent claims 1 and 10 have been rejected under 35 USC § 102(e) as being anticipated by Elliott et al. (US 2002/0064149 A1). It is respectfully submitted that Elliott does not show or suggest "initiating one or more database sessions each in response to one or more user logons to the database," as required by Applicant. The Office asserts that these elements are taught by Elliott in paragraphs 3270 and 3276. Applicant respectfully disagrees. Elliott's field of invention relates to "using the Internet as the communication backbone of a communication system architecture while maintaining a rich array of call processing features." (Page 136, Field of the Invention.) In paragraph 3270, Elliott teaches that the "user authentication between the PC Client and the [web] server is negotiated during the dial-up logon session." The logon described here is a logon to a dial-up communications network and not to a database. Elliott further teaches

CERTIFICATION OF MAILING UNDER 37 CFR 1.8

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By: Michelle George
Name: Michelle George

that once the user is logged into the network, a web server authenticates the user. Nowhere does Elliott teach that a user performs a logon to a database.

In paragraph 3276, Elliott teaches that "the PC Client initiates a single communication session ... able to access the upstream databases containing voicemails, faxmails, emails and pages." Nowhere does Elliott show or suggest that a database session exists in any form. Elliott only describes a single communication session. A person of ordinary skill in the art would understand that a communication session and a database session are not the same and can not be equated. Furthermore, Elliott never shows or suggests that a user performs a logon to any of the databases. Elliott teaches that users logon to a communications network. Elliott is completely silent on a user logging onto a database. A person of ordinary skill in the art would understand that logging into a network is not the same as logging into a database and the mere presence of one does not imply the presence of the other. Finally, if there are no user logons to a database, there can be no initiation of one or more database sessions each *in response* to one or more user logons to the database. These elements are missing from Elliott.

It is respectfully submitted that Elliott does not show or suggest "initiating a plurality of tasks in response to commands received from the one or more database sessions," as required by Applicant. As shown above, Elliott does not teach one or more user logons to the database so there can be no teaching of one or more database sessions initiated in response to the user logons. It follows then that Elliott can not show or suggest initiating a plurality of tasks in response to commands received from the one or more database sessions. However, the Office asserts that these elements are taught in paragraph 3270. This paragraph teaches that the user authentication between a PC Client and a web server is negotiated during the dial-up logon session. The authentication and logon taught by Elliott is part of a point-to-point protocol used by a dial-up computer to gain access to a communications network. It has nothing to do with user logons to a database. In some cases, the process of authenticating a user does involve retrieving user information from a database but the user can not be logged onto the database because the user information must be retrieve from the database before the user can be authenticated and logged into the network. In any case, this passage does not teach initiating a plurality of tasks in response to commands received from the one or more database sessions. These elements are also missing from Elliott.

It is respectfully submitted that Elliott does not show or suggest "classifying each of the plurality of tasks into one of a first set of groups based at least in part on one or more logon

account attributes associated with the one of the one or more database sessions that initiated that task,” as required by Applicant. In the action, the Office asserts that paragraphs 1121 and 3305 of Elliott contains these elements. Applicant respectfully disagrees. As shown above, Elliott teaches features of a large telecommunications network. In paragraph 1121, Elliott teaches “All resources that are of the same type, share common attributes or provide the same capabilities, and are located in the same network locale may be logically grouped together to form a Resource Pool” Elliott is teaching the logical grouping of the local resources of a telecommunications network into a Resource Pool. Nowhere does Elliott show or suggest that these resources include tasks initiated by a database session or that such tasks even exist. Furthermore, Elliott fails to show or suggest the classifying of tasks that are initiated by a database session into a group based at least in part on one or more logon account attributes associated with one of the database sessions that initiated the task.

Paragraph 3305 of Elliott teaches an order entry system with an interface that integrates the order entry capabilities such that the order entry appears to be housed in one order entry system. Elliott further teaches that the order entry system does not require independent logon sessions. This passage does not show or suggest the use of a database and Applicant is at a loss to understand how the above elements of Applicant’s claims are taught by this passage. In fact, the teaching that independent logon sessions are not required would teach away from Applicant’s requirement that there must be database sessions in response to user logons to the database. All least these elements are missing from Elliott.

It is respectfully submitted that Elliott does not show or suggest “assigning a weight to each group of the first set of groups,” as required by Applicant. The Office asserts that paragraph 0598 of Elliott contains these elements. Applicant respectfully disagrees. Paragraph 0598 of Elliott teaches aspects of TCP/IP network protocol. Specifically, it teaches “the packet scheduler 2060 use[s] a priority queuing technique such as Weighted Fair Queuing to help ensure that prioritized packets ... receive higher priority” This passage teaches techniques for routing packets of information across a communications network. This is not related in any way to Applicant’s requirements. Applicant’s groups comprise tasks placed in a group based at least in part on one or more logon account attributes associated with the one of the one or more database sessions that initiated that task. Applicant is assigning a weight to each group of tasks and not to a communication’s packet that is being transmitted across a communications network. These claimed elements are completely missing from Elliott.

It is respectfully submitted that Elliott does not show or suggest "limiting the first task's access to processor resources of the database based at least in part on the weight of a group from the first set of groups in which the first task is classified and also based at least in part on the weight of a group from the second set of groups in which the first task is classified," as required by Applicant. The Office asserts that Elliott teaches these elements in paragraphs 582 and 598. Applicant respectfully disagrees. Paragraph 582 teaches a method for analyzing IP packet source/destination addresses and UDP and TCP ports to select appropriate outgoing network interfaces for each packet." Paragraph 598 teaches "the packet classifier 2050 hands off priority tagged and non-tagged packets to the packet scheduler" Applicant is at a loss to understand how routing and prioritizing data packets on a communications network has anything to do with access to processor resources of a database much less the other required elements. Nowhere does Elliott teach that the IP data packets have anything to do with a database or processor resources of a database. These elements are missing from Elliott.

102(e) Rejection of Independent Claims 20

Independent claim 20 has been rejected under 35 USC § 102(e) as being anticipated by Elliott. It is respectfully submitted that Elliott does not show or suggest "a plurality of virtual processes, each of the one or more CPUs providing access to one or more of the virtual processes," as required by Applicant. The Office asserts that Elliott teaches these elements in paragraph 19 which describes a virtual network (VNET) illustrated in fig. 11. Applicant respectfully disagrees. Elliott teaches in paragraph 3962 that "contemporary telecommunications networks provide customers with the capability of ... defining a custom virtual network (VNET)." A person of ordinary skill in the art would not equate Elliott's custom virtual network implemented in a contemporary telecommunication network with Applicant's requirement for a plurality of virtual processes. A virtual process is not the same as a virtual network. These elements are missing from Elliott.

Dependent Claims

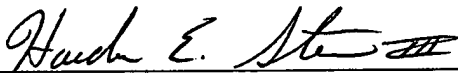
The dependent claims have also been rejected under 35 USC § 102(e) as being anticipated by Elliott. It is respectfully submitted that these claims are allowable for at least the same reasons as the independent claims.

CONCLUSION

Elliott is clearly missing at least the above elements required by Applicant's claims. Therefore, it is respectfully submitted that Elliott does not anticipate all the elements of Applicant's claims and is improper prior art. In view of the foregoing, it is respectfully requested that the final rejections of the claims be withdrawn and that all claims be allowed. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to NCR Deposit Account No. 14-0225.

Respectfully Submitted,

Date: 1-31-06


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